RESOLUTION NO.: **17-05**
DATE ENACTED: **02-03-05**

RESOLUTION NO. 17-05 OF THE MAKAH TRIBAL COUNCIL

WHEREAS, the Makah Tribal Council is the governing body of the Makah Indian Tribe of the Makah Indian Reservation, Washington, by authority of the Constitution and Bylaws of the Makah Indian Tribe as approved on May 16, 1936, by the Secretary of the Interior; and
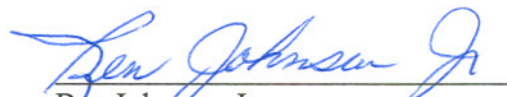
WHEREAS, the Makah Tribe has a documented whaling tradition and has depended on whaling as the basis of its economy, subsistence, and culture for at least 1,500 years; and

WHEREAS, the 1855 Treaty of Neah Bay secures in perpetuity the Tribe's right of taking fish and whaling and sealing at all usual and accustomed grounds and stations; and

WHEREAS, the June 7, 2004 second amended opinion by the Ninth Circuit Court of Appeals on *Anderson v. Evans* 371 F.3d 475 (9th Cir. 2004) requires the Makah Tribe to seek a waiver and/or permit under the Marine Mammal Protection Act (MMPA) in order to exercise the whaling rights secured in the Treaty of Neah Bay.

NOW THEREFORE BE IT RESOLVED the Chairman of the Makah Tribal Council is authorized to submit the attached application under Section 101(a)(3) of the Marine Mammal Protection Act (MMPA), 16 U.S.C. § 1371(a)(3), to the National Oceanic and Atmospheric Administration for a waiver of the moratorium on the taking of taking of marine mammals which would allow the Tribe to conduct a Treaty ceremonial and subsistence (C&S) harvest of up to 20 gray whales from the Eastern North Pacific (ENP) stock in a five-year period, with a maximum of five whales per year.

MAKAH TRIBAL COUNCIL

Ben Johnson, Jr.
Chairman

CERTIFICATION

The foregoing Resolution was adopted at a regular meeting held on <u>February 3, 2005</u>, at which a quorum was present, and the Resolution was adopted by a vote of <u>3</u> FOR and <u>0</u> AGAINST, the Chairperson, or the Vice-Chairperson in his absence, being authorized to sign the Resolution.

By: _JoDean Haupt-Richards_
JoDean Haupt-Richards
Tribal Secretary